

PA4



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/388,804	09/01/1999	PETE N. MOORE	81862.P157	4456

8791 7590 06/17/2003

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

EXAMINER

EMDADI, KAMRAN

ART UNIT	PAPER NUMBER
----------	--------------

2664

DATE MAILED: 06/17/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/388,804

Applicant(s)

MOORE, PETE N.

Examiner

Kamran Emdadi

Art Unit

2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION:

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see paper no. 4, filed 4/3/2003, with respect to the rejection(s) of claim(s) 1-23, have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the new rejections found below.
2. The 101 and 112 type rejections have been withdrawn due to the amendments made to the claims regarding the examiner's previous concerns.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).
5. Claims 1-3, 9 and 12, are rejected under 35 U.S.C. 102(e) as being anticipated by Pasternak et al. (US Patent No. 6157614).

- Regarding claims 1, 9 and 12, Pasternak teaches: a LAN comprising MT (Mobile Terminals) communicating through a BS (Base Station) to a WAN or broadband network (Figure 1), where the bandwidth is allocated to the terminals of the LAN by predefined service categories (Col 3, lines 40-47) and further regulated by bandwidth handling algorithms which include a bucket algorithm and traffic shaping (Col 4, lines 18-30).
 - Regarding claim 2, Pasternak teaches: the fair share of bandwidth is exceeded and the excess bandwidth is distributed amongst the requesting channels according to a WFQ (Weighted Fair Queuing) algorithm (Col 4, lines 35-52).
 - Regarding claim 3, Pasternak teaches: a method of not allowing a grant for more bandwidth to a channel that is requesting more than its fair share (Col 4, lines 39-46).
6. Claims 1-21 and 23, are rejected under 35 U.S.C. 102(e) as being anticipated by Vaid et al. (US Patent No. 6292465).
- Regarding claims 1, 9 and 12, Vaid teaches: a LAN and WAN combined network (Figure 1) with a bandwidth allocation scheme that provides bandwidth to different classes of data traffic (Col 17, lines 17-28).
 - Regarding claims 2 and 13, Vaid teaches: a sharing of excess bandwidth (Col 17, lines 25-35).
 - Regarding claims 3, 4, 10, 11, 14-16, 20 and 21, Vaid teaches: throttling back bandwidth, dropping packets and denying access (Col 17, lines 55-60).

- Regarding claim 5, Vaid teaches: denying new requests based on exception control (Col 17, lines 49-55).
- Regarding claim 6, Vaid teaches: fair allocation of bandwidth for incoming and outgoing traffic (Col 12, lines 35-45).
- Regarding claims 7 and 18, Vaid teaches: admitting new traffic when bandwidth capacity is challenged to provide throughput because of priority demands (Col 17, lines 57-65).
- Regarding claims 8, 17 and 19, it is an inherent feature of a routing apparatus to have a route provision feature and it is inherent for a designated route to not terminate a signal and to provide an exit point, and for an "exit point" to exist in order to allow traffic to exit a routing apparatus.
- Regarding claim 23, it is an inherent feature of a computer readable medium to have electronic signals transporting through a communication medium.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vaid et al. (US Patent No. 6292465) in view of Vaid et al. (US Patent No. 6119235).

- Regarding claim 22, Vaid '465 discloses all of the above embodiments except a floppy disk or CD-ROM as the location of the data to include the set of

instructions. Vaid '235 teaches: a floppy or CD-ROM used to store a program for essentially the same embodiment as the '465 reference. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined these two references and to include the description of a medium to store a computer program that both inventions teach, and is used for the process of handling bandwidth allocation.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
 - Boot et al. (US Patent No. 5896377) Broadband/Narrowband internetworking.
 - Holden (US Patent No. 5570348) ATM switching architecture.
 - Lyles (US Patent No. 5325356) Aggregating ports on an ATM switch.
 - Holden (US Patent No. 6151301) ATM switching architecture.

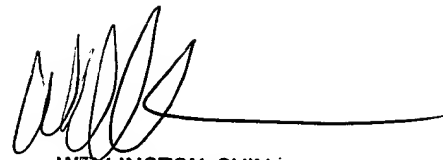
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamran Emdadi whose telephone number is (703) 305-4899. The examiner can normally be reached between the hours of 8am and 5pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin, can be reached at (703) 305-4366. The fax phone numbers for the organization where this application or proceeding is assigned is (703) 872-9314 for regular communications. Any inquiry of a general nature or relating to

Art Unit: 2664

the status of this application or proceeding should be directed to the receptionist
whose telephone number is (703) 305-3900.

Kamran Emdadi

06/07/2003

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

WELLINGTON CHIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600